

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 6. ECONOMIC SECURITY

#### CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY SOCIAL SERVICES

*Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 2470.) The Governor's Office authorized the notice to proceed through the rulemaking process on October 3, 2011.*

[R11-189]

#### PREAMBLE

- | <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R6-5-6701   | Repeal                          |
| R6-5-6701   | New Section                     |
| R6-5-6702   | Repeal                          |
| R6-5-6702   | New Section                     |
| R6-5-6703   | Repeal                          |
| R6-5-6703   | New Section                     |
| R6-5-6704   | Repeal                          |
| R6-5-6704   | New Section                     |
| R6-5-6705   | Repeal                          |
| R6-5-6705   | New Section                     |
| R6-5-6706   | Amend                           |
| R6-5-6707   | Amend                           |
| R6-5-6708   | Repeal                          |
| R6-5-6708   | New Section                     |
| R6-5-6709   | Repeal                          |
| R6-5-6709   | New Section                     |
| R6-5-6710   | Repeal                          |
| R6-5-6710   | New Section                     |
| R6-5-6711   | Repeal                          |
| R6-5-6711   | New Section                     |
| R6-5-6712   | New Section                     |
- 2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):**  
Authorizing statute: A.R.S. § 41-1954(A)(3)  
Implementing statute: A.R.S. § 8-142
- 3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  
Notice of Rulemaking Docket Opening: 17 A.A.R. 1307, July 15, 2011
- 4. The agency's contact person who can answer questions about the rulemaking:**  
Name: Rameshwar Adhikari  
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P.O. Box 6123, Site Code 837A  
Phoenix, AZ 85005

Notices of Proposed Rulemaking

or

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**5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The Department of Economic Security is repealing old adoption subsidy rules and replacing them with new rules that accurately reflect the program's current policies. The proposed rules address all aspects of the Adoption Subsidy Program, including eligibility, requesting benefits, termination of services, and appeals.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The Department foresees no economic impact on small businesses or consumers as a result of these rules. These rules do not expand or reduce eligibility for the Adoption Subsidy Program. No new special needs categories are included in these rules; no existing special needs categories have been deleted in these rules. No services to the population of children served by the Adoption Subsidy Program have been added or eliminated.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

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**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The Department does not intend to hold public hearings on this rule, unless a public hearing is requested within 30 days of the publication of this rule. All written comments on the rule and any requests for public hearing shall be made to the person listed in item 4.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

Not applicable

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

Not applicable

13. The full text of the rules follows:

## TITLE 6. ECONOMIC SECURITY

### CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY SOCIAL SERVICES

#### ARTICLE 67. SOCIAL SERVICES

##### Section

- R6-5-6701. Objective Definitions  
R6-5-6702. Authority Eligibility Criteria  
R6-5-6703. Description of Services Eligibility Determination  
R6-5-6704. Definitions Adoption Subsidy Agreement  
R6-5-6705. Policy Medical, Dental, and Mental Health Subsidy  
R6-5-6706. Types of Maintenance Subsidy  
R6-5-6707. Certification of the Child for Adoption Special Services Subsidy  
R6-5-6708. Adoptive Parents Application for Subsidy Nonrecurring Adoption Expenses  
R6-5-6709. Department Responsibility Annual Review; Reporting Change  
R6-5-6710. Revisions Termination of Adoption Subsidy  
R6-5-6711. Case Management New or Amended Adoption Subsidy Agreement  
R6-5-6712. Appeals

#### ARTICLE 67. SOCIAL SERVICES

##### **R6-5-6701. Objective Definitions**

Adoption subsidy is a program which provides monetary assistance and special services for children who otherwise may not be adopted, making it possible to secure permanent legal homes with qualified adoptive parent applicants who meet adoption agency standards with one exception: that being the financial ability to support the child(ren).

In addition to the definitions in A.R.S. § 8-141, the following definitions apply in this Article:

1. "Adoption/CPS Specialist" means the Department or private agency staff person who is responsible for managing the child's case prior to the adoption finalization.
2. "Adoption subsidy" means the same as in A.R.S. § 8-141 and may include one or more of the following:
  - a. Medical, dental, and mental health subsidy;
  - b. Maintenance subsidy;
  - c. Special services subsidy; and
  - d. Reimbursement of nonrecurring adoption expenses.
3. "Adoption Subsidy Program" means a unit within the Division of Children, Youth and Families designated to administer adoption subsidy.
4. "Adoptive parent" means an adult whom the court has certified or approved to adopt a child, or an adult who has adopted a child.
5. "Adoption subsidy supervisor" means a Department employee who is responsible for the Adoption Subsidy Program within defined geographic areas and whom the Department has authorized to approve an adoption subsidy agreement.
6. "AHCCCS" means the Arizona Health Care Cost Containment System, which is the state's program for medical assistance available under Title XIX of the Social Security Act and state public insurance statutes, A.R.S. Title 36, Chapter 29, Article 1.
7. "AHCCCS hospital reimbursement system" means the payment structure that AHCCCS uses to pay for inpatient and outpatient hospital services.
8. "ALTCS" or "Arizona Long-term Care System" means the program established to provide long-term care under A.R.S. Title 36, Chapter 29, Article 2.
9. "Complete application" means a packet containing:
  - a. A Department-provided "Adoptive Family Subsidy Application" form that the adoptive parent and the Adoption/CPS Specialist and Adoption/CPS Specialist supervisor have completed and signed.

Notices of Proposed Rulemaking

- b. The supporting documentation and information requested in the “Adoptive Family Subsidy Application.”
10. “Debilitating” means a lifelong, progressive, or fatal condition characterized by physical, mental, or developmental impairment that impedes an individual’s ability to function independently.
  11. “Department” or “DES” means the Arizona Department of Economic Security.
  12. “Diagnose” means to identify a physical, psychological, social, educational, or developmental condition according to the accepted standards of the medical, mental health, or educational professions.
  13. “Emergency situation” means a circumstance that, if unaddressed, would be detrimental to a child’s life, health, or safety.
  14. “Foster Family Care payment” means a monetary payment the Department makes to a foster parent to provide substitute care for a child when the child’s own family cannot care for the child for a temporary or extended period of time.
  15. “Health service professional” means a practitioner licensed or certified by the state of Arizona or another state to evaluate and diagnose conditions or provide physical or mental health services.
  16. “Office of Appeals” means the Department’s independent, quasi-judicial, administrative hearing body, which includes hearing officers appointed under A.R.S. § 41-1992(A).
  17. “Qualified professional” means a practitioner licensed or certified by the state of Arizona or another state to evaluate and diagnose conditions or provide medical, dental, mental health, or educational services.
  18. “Racial or ethnic factors” means Black, Hispanic, Native American, Asian, or other heritage that has been determined to be a barrier to a child being adopted.
  19. “Sibling relationship” means two or more children who are related by blood or by law, and whom the same family has adopted.
  20. “Special allowance” means funds provided for clothing or personal expenses, therapeutic or personal attendant care, and other specialized payments such as emergency clothing, education, and gift allowances.
  21. “Special needs” means one or more of the following conditions which existed before the finalization of adoption:
    - a. Physical, mental or developmental disability.
    - b. Emotional disturbance.
    - c. High risk of physical or mental disease.
    - d. High risk of developmental disability.
    - e. Age of six or more years at the time of application for an adoption subsidy.
    - f. Sibling relationship.
    - g. Racial or ethnic factors.
    - h. High risk of severe emotional disturbance if removed from the care of his foster parents.
    - i. Any combination of the special needs described in this paragraph. A.R.S. § 8-142
  22. “SSI” means supplemental security income, a direct government benefit available under Title XVI of the Social Security Act.
  23. “Standard of care” means a medical or psychological procedure or process that is accepted as treatment for a specific illness, injury, medical or psychological condition through custom, peer review, or consensus by the professional medical or mental health community.
  24. “Title IV-E” means section 473 of Title IV of the Social Security Act, 42 U.S.C. 673, which establishes the federal adoption assistance program.
  25. “Title XIX” means Medicaid, as defined by Section 1900, Title XIX, of the Social Security Act, 42 U.S.C. 1396.
  26. “Title XX” means the Social Services Block Grant, as defined by Section 2001, Title XX, of the Social Security Act, 42 U.S.C. 1397.
  27. “Undiagnosed pre-existing condition” means a physical, mental or developmental disability or emotional disturbance that existed before a court finalized the child’s adoption and a qualified professional did not confirm before the child’s adoption.

**R6-5-6702. Authority Eligibility Criteria**

The adoption subsidy program is authorized under A.R.S. Title 8, Chapter 1, Article 2, Sections 8-141 through 8-145.

**A. An Arizona child shall be eligible for adoption subsidy when the child is:**

1. In the care, custody, and control of the Department or other public or private child welfare agency licensed in Arizona, or was previously adopted and received adoption subsidy;
2. Legally free for adoption;
3. Legally present in the United States; and
4. Determined to be a child with special needs as defined by Title IV-E of the Social Security Act and A.R.S. Title 8, Article 2. To meet the requirements, the Department shall determine that:
  - a. The child cannot or should not be returned to the parent’s home;
  - b. The child cannot be placed with adoptive parents without adoption subsidy due to a specific factor, condition, or special need of the child; and
  - c. A reasonable but unsuccessful effort was made to place the child without an adoption subsidy, unless the Depart-

ment determined that it was not in the child's best interest to place the child with another family because of the child's significant emotional ties with the prospective adoptive parents while in their care as a foster child.

- B.** To qualify for Title IV-E adoption subsidy, a child shall also meet the additional eligibility criteria required in 42 U.S.C. 673(a)(2).

**R6-5-6703. ~~Description of Services~~ Eligibility Determination**

Depending on the needs of the child, the subsidy may be for special services and/or money payments and for a limited period or until the child is 18 years of age, or for any combination thereof.

- A.** The adoptive parent shall submit a complete adoption subsidy application to the Department Adoption Subsidy Program prior to the finalization of the adoption. An application is complete when the Adoption Subsidy Program receives the application and all supporting documentation. Documentation may vary according to the conditions of the child and may include the recommendations of qualified professionals.
- B.** The Department shall review the application and determine eligibility according to the following:
1. The Department shall approve eligibility for adoption subsidy if a child meets the eligibility criteria listed in R6-5-6702. If the Department approves eligibility, the Department shall create an adoption subsidy agreement that the adoptive parent and the adoption subsidy supervisor or designee shall sign before the court enters the final order of adoption.
  2. The Department shall deny eligibility for adoption subsidy if a child does not meet the eligibility criteria listed in R6-5-6702. If the Department denies adoption subsidy, the Department shall send notice to the adoptive parent that explains the reason for denial, the applicant's right to appeal, and the time-frame to file an appeal.

**R6-5-6704. ~~Definitions~~ Adoption Subsidy Agreement**

- A.** "Adoption subsidy." Providing monetary assistance and/or special services to secure permanent legal homes for children who otherwise may not be adopted.
- B.** "Adoptive parents." Any adult or adults who are residents of Arizona, whether married, unmarried or legally separated, who qualify to adopt children or have adopted children.
- C.** "Adoptive parents of another state." Any adult or adults who are residents of a state other than Arizona who qualify to adopt children, or have adopted children, according to the laws of that state.
- D.** "Child." Any person under the age of 18 years who is legally free for adoption, who has either become emotionally attached to the prospective adoptive parents while in their care as a foster child or who otherwise may not be adopted because of any of the following special circumstances:
1. Physical or mental disability.
  2. Emotional disturbance.
  3. High risk of physical or mental disease.
  4. Age.
  5. Sibling relationship.
  6. Racial or ethnic factors.
  7. Any combination of circumstances described by paragraph (1) through (6). (A.R.S. § 8-141).
- E.** "Foster parents." Any adult or adults maintaining a foster home.
- F.** "Money payments." Monthly subsistence payments for the child.
- G.** "Special services subsidy." Payment to adoptive parents or to the provider of services for expenses incurred in the provision of medical/dental, psychiatric/psychological, special education/day treatment and other services to meet the pre-existing or otherwise indicated health-related needs or risks of the child.
- A.** The Department shall create an adoption subsidy agreement that lists the scope and nature of the subsidies provided, including:
1. The child's documented pre-existing conditions.
  2. The types of subsidy approved.
  3. The amount or rates as applicable to the types of subsidy approved, and
  4. The specific terms and conditions of the agreement.
- B.** The adoption subsidy agreement shall become effective if the following occurs prior to the finalization of the adoption:
1. The adoptive parent signs the agreement and returns it to the Department Adoption Subsidy Program, and
  2. The adoption subsidy supervisor or designee signs the agreement.

**R6-5-6705. ~~Policy~~ Medical, Dental, and Mental Health Subsidy**

- A.** Foster parents interested in adopting a child in their home or any other persons interested in adopting a child who is in custody of the Department or a licensed child-placing agency in Arizona, may apply to the Department of Economic Security to have the child certified for adoption subsidy.
- B.** A child who is in the custody of the Department or a licensed child-placing agency in Arizona when eligibility for subsidy is certified shall remain eligible and may receive subsidy, regardless of the domicile or residence of the adopting parents at the time of application for adoption, placement, legal order of adoption or thereafter.

Notices of Proposed Rulemaking

- ~~C.~~ All persons approved for the program as adoptive parents must meet adoption agency standards, with one exception; that being the financial ability to support the child.
- ~~D.~~ The child for whom subsidy is to be considered must be:
  - 1. In the custody of the Department and a ward of the court or in the custody of a licensed child-placing agency in Arizona.
  - 2. Legally free for adoption.
- ~~E.~~ An adoption subsidy agreement must be signed prior to entry the order of adoption.
- ~~F.~~ An adoption subsidy may:
  - 1. Commence at any time after subsidy is approved and the child has been placed for adoption.
  - 2. Vary with the needs due to the special circumstance of the adopted child and with the availability of other resources.
  - 3. Continue as long as the needs of the child exist and the child is a legal dependent of the adoptive parents, but not beyond 18 years of age.
  - 4. Be for special services only.
  - 5. Be for money payments only.
  - 6. Be for special services and money payments.
  - 7. Not exceed money payments allowable for foster family care.
  - 8. Include, in the case of a special service, the reasonable fee for the service rendered.
- ~~G.~~ All direct benefits available to the child shall be subtracted from the subsidy. Such benefits include, but are not limited to the following: Social Security, A.S.I., Veterans Administration, Tribal and Insurance Benefits.
- ~~H.~~ There shall be an annual review by the Department of all continuing subsidies to ascertain the need for continuing or adjusting the subsidy.
- ~~I.~~ The adoption subsidy will be suspended if the child is placed in the care, custody, and control of an agency or individual other than the adoptive parents or custody, and control of an agency or individual other than the adoptive parents or if the child's needs no longer exist. In the event the child is placed in foster care the subsidy shall be suspended for that period of time when the child is out of the home. The subsidy may be resumed upon the child's return to the home if the need still exists.
- ~~J.~~ In the event the adoptive parents move out of state, the subsidy shall be continued so long as the child's need is confirmed and documented in the child's record.
- ~~K.~~ All records regarding subsidized adoption shall be confidential and may be disclosed only in accordance with the state laws and/or regulations of the Department of Economic Security.

Adoption subsidy provides medical, dental, and mental health subsidy in the form of AHCCCS/Medicaid coverage to a child in the Adoption Subsidy Program who is determined eligible for AHCCCS/Medicaid. The relevant agency in the state in which the child resides determines AHCCCS/Medicaid eligibility.

**R6-5-6706. Types of Maintenance Subsidy**

- ~~A.~~ Money payments
  - 1. Amount and method of payment:
    - a. Money payments shall not exceed the current rate for foster family care and shall be automatically adjusted whenever foster family care rates are changed.
    - b. The subsidy shall be paid on a monthly basis and be issued to the adoptive parents.
  - 2. Duration
    - a. Time limited subsidy: Payments for a specified period of time.
    - b. Long term subsidy: Payments for an unspecified period of time which may extend until the child reaches the age of 18.
    - c. Delayed subsidy: Entering into an agreement on anticipated future needs for money payments.
- ~~B.~~ Special services subsidy
  - 1. Children to be considered for special services subsidy shall include:
    - a. Children with a known, pre-existing condition which will require treatment or surgery after adoptive placement and/or after the legal order of adoption.
    - b. Children who, because of their genetic background, medical or social history, face a recognized high risk that a related physical or mental condition may later develop.
  - 2. Services covered include, but are not limited to:
    - a. Treatment of medical, dental and emotional conditions.
    - b. Other health related services such as physical therapy, rehabilitation training, speech and hearing therapy, and purchase or rental of wheelchairs, braces, crutches, prostheses, glasses and hearing aids.
  - 3. Limitation
    - a. Evaluation must be made on the adoptive parents' medical and hospital insurance and of other public and voluntary community services (such as Crippled Children's Services) to determine whether treatment and related costs can be covered by one or more of the existing health programs. Available resources must be utilized. Verification

**Notices of Proposed Rulemaking**

must be recorded in the case record. If these resources fully cover the child's special needs, subsidy may still be approved to guarantee continued services to the child should the availability of insurance or other resources fail in the future.

- b. The subsidy shall not include provision for payment of routine medical care or health problems that occur subsequent to the final order of adoption.
- e. Evaluation must be made of Public School District Special Education Programs to determine whether they can meet the child's educational needs. In cases where the School District certifies that no appropriate program is provided but cannot pay any or all of the cost of Special Education in a non-public school program, the Department may supplement or pay full tuition. The non-public school must be certified by the Arizona State Department of Public Education for such Special Education. Before this payment may be approved, all authorized methods for payment by the Public School and the Department of Education must be exhausted. Verified information must be documented in the Case Record.

**4. Amount and method of payment**

- a. The amount of the subsidy for health related services shall be limited to a usual, customary and reasonable fee for the service rendered.
- b. The amount of subsidy for day treatment or special education shall be no more than the total monthly tuition less any amount which can be paid by the school and any amount which may be paid through voucher by the State Department of Education.
- e. The subsidy payments will be made directly to the adoptive parents, who will then pay the provider. Exception: In the event of high cost health related services, such as hospitalization and surgery, if the adoptive parents prefer not to handle these large sums of money, payment may be made directly to the provider.

**A. Maintenance subsidy is the monthly payment paid to the custodial adoptive parent to assist with the costs directly related to meeting the adopted child's needs, including but not limited to child care, health insurance co-payments and deductibles, and supplemental educational services for the child. It is not expected to cover all the daily living expenses of the adopted child. The Department and the adoptive parent shall negotiate the amount of maintenance subsidy based on a child's current special needs and the family's circumstances.**

- 1. As required by A.R.S. § 8-144(B), the amount of the maintenance subsidy shall not exceed the payments allowable under foster family care, not including special allowances.
- 2. The Department shall deduct public or private monetary benefits, such as benefits received through Title II of the Social Security Act, paid to the child from the monthly maintenance subsidy, as allowed under state or federal law. The adoptive parents shall report the receipt of any monetary benefits for the child to the Adoption Subsidy Program.

**B. Payment of Maintenance Subsidy**

- 1. The Department shall not begin maintenance subsidy payments prior to the effective date of the adoption subsidy agreement.
- 2. The Department shall issue maintenance subsidy payments monthly to the adoptive parent as specified in the adoption subsidy agreement.

**C. Renegotiation of the Maintenance Rate**

- 1. The Department or the adoptive parent may initiate a change in the maintenance subsidy rate if there are changes in the child's needs.
- 2. The adoptive parent shall provide the Department with documentation supporting the requested change in the maintenance subsidy rate.
- 3. If the child is in the care or custody of an agency or individual other than the adoptive parents, the Department shall request, and the adoptive parents shall provide, documentation of the adoptive parents' continued legal and financial responsibility for the child.

**R6-5-6707. ~~Certification of the Child for Adoption~~ Special Services Subsidy**

**A.** ~~The child with special needs shall be evaluated by qualified specialists as to the medical/dental, psychiatric/psychological, developmental/educational, and other health related services needed. This shall be done prior to selection of an adoptive family.~~

**B.** ~~The child who has become emotionally attached to his foster parents shall:~~

- 1. ~~Be currently in a foster home which meets the standards for certification for adoption; except for the financial ability to support the child; and,~~
- 2. ~~Have a psychiatric or psychological evaluation which indicates the child has established such significant emotional ties with the foster parents as to be unable to readily accept another family; or,~~
- 3. ~~Have established such a meaningful relationship with the foster parents that the most appropriate plan is adoption by the foster parents, as determined by the Social Services Worker and Social Services Supervisor.~~

**C.** ~~The child with special needs due to age; sibling relationship; and/or racial or ethnic factors may also be certified for adoption subsidy when such factors impede the child's adoptive placement.~~

**D.** ~~The Social Services Worker responsible for case planning for the child shall, after obtaining comprehensive evaluation of~~

Notices of Proposed Rulemaking

the child's needs, complete the required forms to request Department certification of the child as appropriate for adoption subsidy.

- ~~E.~~ Reasons for which the child is certified may change at anytime after subsidy is approved and the child has been placed for adoption, but prior to entry of the order of adoption.
- ~~F.~~ The Department will approve or deny each request for certification.
- ~~G.~~ Approval of the child for subsidy may be completed before the child is placed in an adoptive home.
- ~~H.~~ The adoptive family must apply and be approved before payment may be made on behalf of the child.
- A. Special services subsidy is financial assistance for extraordinary, infrequent, or uncommon needs related to a special needs condition specified on the adoption subsidy agreement.
- B. Special services shall be:
  - 1. Related to a special needs condition listed on the adoption subsidy agreement;
  - 2. Necessary to improve or maintain the adopted child's functioning as documented by an appropriate qualified professional. The Adoption Subsidy Program shall review the documentation at least annually;
  - 3. Provided by a qualified professional;
  - 4. Provided in the least restrictive environment and as close as possible to the family's residence;
  - 5. In accordance with the "Standard of Care," as defined in A.A.C. R9-22-101; and
  - 6. Not otherwise covered by or provided through maintenance subsidy, medical subsidy, dental subsidy, mental health subsidy, or other resources for which the adopted child is eligible.
- C. The adoptive parent shall submit the special services request to the Adoption Subsidy Program and receive approval from the Adoption Subsidy Program prior to the adoptive parent's incurring the specified expense. The request shall include:
  - 1. Documentation from a qualified professional that the service is necessary; and
  - 2. Documentation that the adoptive parent had requested the service and the service provider had denied the request or documentation that the service is not available from other potential funding sources, such as AHCCCS/MEDICAID, private insurance, school district, or other community resources.
- D. Special services subsidy shall not include:
  - 1. Payment for services to meet needs other than the pre-existing special needs conditions specifically listed in the adoption subsidy agreement;
  - 2. Payment for medical or dental services usually considered to be routine, such as well-child checkups, immunizations, and other services not related to the child's special needs conditions on the adoption subsidy agreement;
  - 3. Payment for health-related services that are not medically necessary, as determined by a health service professional;
  - 4. Payment for social or recreational services such as routine child care, dance lessons, sports fees, camps, and similar services; and
  - 5. Payment for educational services that are not necessary to meet the special needs conditions specifically listed in the adoption subsidy agreement, or the services for which the school district is responsible.
- E. The Department may request an independent review by a qualified professional of a special services request to determine the necessity for medical, dental, psychological, or psychiatric testing or services, or to evaluate the appropriateness of the treatment plan or placement.
- F. The Department shall issue reimbursements to the adoptive parent for approved special services. If requested by the adoptive parent due to the adoptive parent's inability to pay, the Department may pay the service provider directly.
- G. Special services subsidy reimbursement is limited as follows:
  - 1. The Department shall reimburse in-state and out-of-state inpatient and outpatient hospital services according to the AHCCCS hospital reimbursement system, as required by A.R.S. § 8-142.01(A), if the adoptive parent has obtained prior approval for the service from the Department. Prior approval is not required in an emergency situation.
  - 2. The Department shall not reimburse special services subsidy amounts in excess of the rates allowed by the Department or AHCCCS. The Department shall use the lowest applicable rates as established by AHCCCS, the DES Comprehensive Medical and Dental Plan (CMDP), or rates established by the Adoption Subsidy Program to be customary and reasonable.
  - 3. The Department shall not pay requests that the adoptive parent or provider submits more than nine months after the date of service for which the adoptive parent or provider requests payment.

**R6-5-6708. Adoptive Parents Application for Subsidy Nonrecurring Adoption Expenses**

- ~~A.~~ The adoptive parents shall be court certified or approved as an adoptive home.
- ~~B.~~ It shall be determined that appropriate resources for placement of the child have been considered and carefully evaluated, and that the adoptive family wishing to apply shall be considered the most appropriate placement for the specific child(ren).
- ~~C.~~ The adoptive parents shall submit a written application on forms provided by the Department.
- ~~D.~~ The Department must make a decision to approve or deny the application within 30 days after the application is received.
- A. Nonrecurring adoption expenses are reasonable and necessary expenses related to the legal process of adopting a child with special needs. Allowable expenses include adoption fees, court costs, attorney's fees, fingerprinting fees, home study

Notices of Proposed Rulemaking

fees, costs for physical examinations, costs for placement supervision, and travel expenses necessary to complete the adoption. The Adoption Subsidy Program does not cover expenses related to visiting and placing the child.

**B.** Reimbursement of nonrecurring adoption expenses is subject to the limitations in A.R.S. § 8-164 and to actual documented expenses not to exceed \$2000 per child.

**C.** To be eligible for reimbursement of nonrecurring adoption expenses, the child shall meet the requirements of A.R.S. § 8-163.

**R6-5-6709. Department Responsibility Annual Review; Reporting Change**

**A.** ~~The Department shall:~~

1. ~~Advise adoptive parents that adoption subsidy is available for children meeting the following special circumstances:~~
  - a. ~~Physical or mental disability~~
  - b. ~~Emotional disturbance~~
  - c. ~~High risk of physical or mental disease~~
  - d. ~~Age~~
  - e. ~~Sibling relationship~~
  - f. ~~Racial or ethnic factors~~
  - g. ~~Any combination of circumstances described by subparagraphs (a) through (f).~~

2. ~~Advise adoptive parents regarding subsidy prior to preplacement visit between child and potential adoptive parents.~~

3. ~~After the placement of a certified child in the adoptive home, evaluate the adoptive family's medical and hospital insurance and address the limitations of the agreement.~~

4. ~~Approve and sign the Agreement between the Department of Economic Security and adoptive parents regarding Subsidy Payments.~~

**B.** ~~Shall accept application to have child certified for adoption subsidy:~~

1. ~~Determine child's eligibility for subsidy.~~

2. ~~Approve or disapprove the application submitted by the adoptive parents regarding Subsidy Payments.~~

**C.** ~~If the child is determined eligible, the Application will be approved and the adoptive parents shall be asked to sign the Agreement.~~

**D.** ~~If the application for a subsidy is disapproved, the Department shall send a decision letter within ten days of making the decision stating the reason(s) for disapproval and the fact the applicant has a right to appeal.~~

**E.** ~~Subsidy payments may begin when the certified child is placed for adoption and the subsidy is approved.~~

**A.** Each year, the Department shall send a review form to the adoptive parent requesting that the parent provide:

1. Information that the parent remains legally and financially responsible for the child;
2. Information on any change in benefits, such as benefits received through Title II of the Social Security Act;
3. Information on any change in circumstances, including changes in residence, marital status, educational status, or other similar changes; and
4. A description of any changes in the child's special needs conditions that are listed in the adoption subsidy agreement.

**B.** The adoptive parent shall provide the Department with the requested information within 30 days of the adoptive parent's receipt of the review form.

**C.** The adoptive parent shall notify the Department in writing within five calendar days when any of the following occurs:

1. The adoptive parent is no longer legally responsible for the child.
2. The adoptive parent is no longer providing support to the child.
3. The child is no longer residing in the adoptive parent's home.
4. The child has graduated from high school or obtained a general equivalency degree (GED).
5. The child has married, or
6. The child has joined the military.

**R6-5-6710. Revisions Termination of Adoption Subsidy**

~~If at any time the circumstances of the child or the family change materially, the original agreement shall be reviewed at that time and may be modified at the request of the family or the Department.~~

The Department shall terminate an adoption subsidy when any of the following occurs:

1. The child turns 18 years old and is not enrolled in and attending high school or a program leading to a high school diploma or general equivalency degree (GED);
2. The child is aged 18 through 21, has been continuously enrolled in school, and either drops out of school, graduates from high school, or obtains a general equivalency degree (GED);
3. The child's 22nd birthday;
4. The adoptive parent is no longer legally responsible for the child;
5. The adoptive parent is no longer providing support to the child;
6. The child marries;
7. The child joins the military;

Notices of Proposed Rulemaking

8. The special needs conditions of the child no longer exist; or
9. The adoptive parent requests termination.

**R6-5-6711. Case Management New or Amended Adoption Subsidy Agreement**

- ~~A.~~ The case shall remain open as long as the child continues to be approved for subsidy. The functions and responsibilities of the Department will be limited to documenting need and making subsidy payments.
- ~~B.~~ Confidentiality. The files and regulations of the Department regarding the disclosure and use of confidential information concerning the client, as set forth in A.A.C. Title 6, Chapter 5, Article 23, "Safeguarding for Records and Information" shall apply to all services provided under this Article.
- ~~C.~~ Appeals. The rules and regulations of the Department set forth in A.A.C. Title 6, Chapter 5, Article 25, "Complaints and Appeals" shall apply to all services provided under this Article.
- ~~D.~~ Civil rights. The rules and regulations of the Department set forth in A.A.C. Title 6, Chapter 5, Article 26, "Civil Rights" shall apply to all services provided under this Article.
- ~~E.~~ Closing the service. The service will be closed when the child is no longer approved for subsidy.

An adoptive parent may apply for a new or amended adoption subsidy agreement after the adoption is final only upon documentation of an undiagnosed special need condition that existed before the finalization of the adoption.

1. The adoptive parent shall send the Department a written request for adoption subsidy with documentation from a qualified health service professional diagnosing the special needs condition and confirming that it existed before the final order of adoption.
2. The adoptive parent and the Department shall follow the same procedures for processing applications and determining eligibility as identified in R6-5-6703.
3. If the Department finds that the child has an undiagnosed pre-existing special needs condition that, if diagnosed prior to the adoption, would have met the eligibility criteria listed in R6-5-6702, the Department shall grant a new subsidy or amend the adoption subsidy agreement to cover this condition.

**R6-5-6712. Appeals**

- ~~A.~~ When the Department denies, reduces, or terminates an adoption subsidy, the Department shall send the adoptive parent written notice of the action and the parent's right to appeal.
- ~~B.~~ The notice shall contain:
  1. An explanation of the action taken and the reason for the action.
  2. A statement of the adoptive parent's right to appeal the action, and
  3. The time-frame for filing an appeal.
- ~~C.~~ The request for appeal shall:
  1. Specify the action being appealed;
  2. The reasons for the appeal; and
  3. A brief summary of why the Department's action was erroneous, unlawful, or improper.
- ~~D.~~ The Office of Appeals shall conduct the appeal pursuant to A.R.S. § 8-145.
- ~~E.~~ The rules of the Department set forth in Article 24 of this Chapter shall apply to all services provided under this Article.